

The Do-Not-Call Implementation Act has some laudable goals that are intended to help consumers be more comfortable in their homes. However there is a significant potential for a large downside to the US economy if appropriate safeguards are not put in place to ensure that the legitimate and thoughtful use of telemarketing as a sales tool.

As I understand it, the purpose of this rule-making is to solicit comments on how best to formulate the FCC enforcement rules for the Do-Not-Call Implementation Act (DNCIA) so that they are well coordinated with the FTC rules. With this in mind I offer the following comments:

- 1) The FTC rules have called for a maximum 3% abandonment rate for telemarketing companies that use autodialers. My personal experience with receiving calls at my home that are originated from autodialers is that about 75% of these calls do not have agents available to speak when I answer my phone. This may have to do with the quality of autodialer they are using or it may have to do with overly aggressive dialing algorithms. Regardless, the fact that I have to stop what I am doing to answer the telephone only to find that no one is on the other end of the line is inexcusable. The penalty for violations of this rule should be stiff. Measurement should be required to be certified the telemarketing company and should be required often (potentially once per quarter). I would also recommend that the rules allow for audits of the reported results.
- 2) A Do-Not-Call list, while desirable, has the potential to severely impact the telemarketing industry and their customers. Many service companies and manufacturers depend on telemarketing as a mechanism for selling their products. They would not be successful, viable companies if telemarketing did not produce results for them. Therefore, even though a number of consumers claim that they never buy from telemarketers, there must a significant enough number that do buy from them to keep them and their customers in business. With this in mind, I would recommend the rules be formulated such that penalties for violation of the Do-Not-Call list itself, be driven on a tiered basis. The penalties should increase based on the number of violations reported by a single consumer. If a consumer has asked to place on the list and they only get called once and report that call, then the penalty should be low, if they consumer is called multiple times by the same company and the consumer reports each of them, the repeat violations should carry successively higher penalties. By structuring the rule in this way, it will help to ensure that the consumers that are deadly serious about not wanting to receive any of these calls will have a mechanism to exercise their desires. If the consumer just had their name placed on the list because it seemed like a good idea at the time, but really did not have a significant issue with telemarketers, it would be up to them to report the violations. This would give telemarketers a way to measure their risk for violation of the rules.
- 3) Finally, I believe that the rulemaking should be structured to allow business lines and phone numbers to be placed on the Do-Not-Call list and to have them classified as business numbers. Penalties for violation of a business number that is on the list should be stiff from the beginning. There are a number of people that work from home and have dedicated lines installed for doing so. They should not

have to be bothered with telemarketing calls that would impact their job performance and potentially their ability to make a living.